
HOUSE BILL No. 1980

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-16-12.

Synopsis: State funds used for union organizing. Prohibits a state contractor that receives \$50,000 or more under a state contract from assisting, promoting, or deterring labor union organizing. Prohibits state funds from being used to reimburse those activities. Prohibits a grant recipient, state contractor, public employer, or private employer who receives state funds and meets other requirements from using state funds to assist, promote, or deter union organizing. Prohibits a private employer who conducts business on state property under a contract or concession agreement with the state or a state agency to use the state property to hold a meeting with any employees or supervisors if the purpose of the meeting is to assist, promote, or deter union organizing. Imposes civil penalties for a violation of these provisions. Provides that an employee of a public employer that receives state funds is personally liable to the state for knowingly authorizing a use of state funds to assist, promote, or deter union organizing. Requires specified recipients of state funds to comply with certification and recordkeeping requirements relating to the use of state funds.

Effective: January 1, 2002.

Adams T, Liggett

January 17, 2001, read first time and referred to Committee on Labor and Employment.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1980

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-16-12 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2002]:

4 **Chapter 12. Prohibition on Use of State Funds and Facilities to**
5 **Assist, Promote, or Deter Labor Union Organizing**

6 **Sec. 1. As used in this chapter, "assist, promote, or deter labor**
7 **union organizing" means any attempt by an employer to influence**
8 **the decision of its employees in Indiana or those of its**
9 **subcontractors regarding either of the following:**

10 (1) **Whether to support or oppose a labor organization that**
11 **represents or seeks to represent those employees.**

12 (2) **Whether to become a member of any labor organization.**

13 **Sec. 2. As used in this chapter, "private employer" means any**
14 **individual, corporation, unincorporated association, partnership,**
15 **or other legal entity that employs more than one (1) person in**
16 **Indiana.**

17 **Sec. 3. As used in this chapter, "public employer" means a**

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political subdivision (as defined in IC 36-1-2-13).

Sec. 4. As used in this chapter, "state contractor" means any employer that receives state funds for supplying goods or services under a written contract with the state or any of its agencies. The term includes a public employer that receives state funds under a contract specified in section 5 of this chapter. For purposes of this chapter, the contract is considered to be a contract with a state agency.

Sec. 5. As used in this chapter, "state funds" means any money drawn from the state general fund or any special or trust fund of the state, including any money appropriated by the state and transferred to any political subdivision, that is used by the political subdivision to fund, in whole or in part, a service contract that exceeds two hundred fifty thousand dollars (\$250,000).

Sec. 6. As used in this chapter, "state property" means any property or facility owned or leased by the state or any state agency.

Sec. 7. This chapter does not apply to an activity performed or an expense incurred in connection with any of the following:

- (1) Addressing a grievance or negotiating or administering a collective bargaining agreement.
- (2) Allowing a labor union organization or its representatives access to the employer's facilities or property.
- (3) Performing an activity required by federal or state law or by a collective bargaining agreement.
- (4) Negotiating, entering into, or carrying out a voluntary recognition agreement with a labor union organization.

Sec. 8. This chapter does not:

- (1) apply to an expenditure made before January 1, 2002, or to a grant or contract awarded before January 1, 2002, unless the grant or contract is modified, extended, or renewed after December 31, 2001; or
- (2) require employers to maintain records in any particular form.

Sec. 9. (a) For purposes of this chapter, any expense, including legal and consulting fees and salaries of supervisors and employees, incurred for research for, or preparation, planning, or coordination of, or carrying out, an activity to assist, promote, or deter labor union organizing shall be treated as paid or incurred for that activity.

(b) For purposes of accounting for expenditures, if state funds and other funds are commingled, any expenditures to assist,

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1 promote, or deter labor union organizing shall be allocated
2 between state funds and other funds on a pro rata basis.

3 Sec. 10. (a) This section does not apply to a fixed price contract
4 or to any other arrangement by which the amount of the payment
5 of state funds does not depend on the costs incurred by the state
6 contractor.

7 (b) State funds may not be used to reimburse a state contractor for
8 any costs incurred to assist, promote, or deter labor union
9 organizing.

10 (c) Every request for reimbursement from state funds by a state
11 contractor must include a certification that the state contractor is
12 not seeking reimbursement for costs incurred to assist, promote, or
13 deter labor union organizing. A state contractor that incurs costs
14 to assist, promote, or deter labor union organizing shall maintain
15 records sufficient to show that no reimbursement from state funds
16 has been sought for those costs. The state contractor shall provide
17 those records to the attorney general upon request.

18 Sec. 11. (a) The recipient of a grant of state funds, including
19 state funds disbursed as a grant by a public agency, shall not use
20 the funds to assist, promote, or deter labor union organizing.

21 (b) For purposes of this section, each recipient of a grant of state
22 funds shall account for those funds as follows:

23 (1) State funds designated by the grantor for use for a specific
24 expenditure of the recipient shall be accounted for as
25 allocated to that expenditure.

26 (2) State funds that are not designated as described in
27 subdivision (1) shall be allocated on a pro rata basis to all
28 expenditures by the recipient that support the program for
29 which the grant is made.

30 (c) Before the disbursement of a grant of state funds, the
31 recipient shall provide a certification to the state agency that is the
32 source of the grant that none of the funds will be used to assist,
33 promote, or deter labor union organizing. Any recipient that
34 makes expenditures to assist, promote, or deter labor union
35 organizing shall maintain records sufficient to show that state
36 funds have not been used for those expenditures. The grant
37 recipient shall provide those records to the attorney general upon
38 request.

39 Sec. 12. A state contractor shall not assist, promote, or deter
40 labor union organizing by employees who are performing work on
41 a service contract, including a public works contract, for the state
42 or a state agency.



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1 **Sec. 13. (a)** A state contractor that receives more than fifty
 2 thousand dollars (\$50,000) of state funds under a contract with the
 3 state or a state agency shall not use those state funds to assist,
 4 promote, or deter labor union organizing during the life of the
 5 contract, including any extensions or renewals of the contract.
 6 However, the monetary threshold in this subsection does not limit
 7 the application of other provisions of this chapter that restrict the
 8 use of state funds.

9 **(b)** All contracts:

10 (1) that exceed of fifty thousand dollars (\$50,000); and

11 (2) that are awarded by the state or a state agency;

12 must contain the prohibition stated in subsection (a).

13 **(c)** A state contractor who:

14 (1) is subject to subsection (a); and

15 (2) who makes expenditures to assist, promote, or deter labor
 16 union organizing;

17 shall maintain records sufficient to show that no state funds were
 18 used for those expenditures. The state contractor shall provide
 19 those records to the attorney general upon request.

20 **Sec. 14.** This section does not apply if state property is available,
 21 without charge, to the general public for holding a meeting. A
 22 private employer conducting business on state property under a
 23 contract or concession agreement with the state or a state agency,
 24 or a subcontractor on such a contract or agreement, shall not use
 25 state property to hold a meeting with any employees or supervisors
 26 if the purpose of the meeting is to assist, promote, or deter labor
 27 union organizing.

28 **Sec. 15.** A public employer receiving state funds shall not use
 29 any of those funds to assist, promote, or deter labor union
 30 organizing.

31 **Sec. 16. (a)** A private employer that receives more than ten
 32 thousand dollars (\$10,000) of state funds in any calendar year on
 33 account of its participation in a state program shall not use any of
 34 those funds to assist, promote, or deter labor union organizing.

35 **(b)** As a condition of participating in a state program under
 36 which it will receive state funds in excess of ten thousand dollars
 37 (\$10,000) in any calendar year, a private employer shall provide a
 38 certification to the state agency administering the program that
 39 none of those funds will be used to assist, promote, or deter labor
 40 union organizing.

41 **(c)** A private employer who:

42 (1) is subject to subsection (a); and

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(2) who makes expenditures to assist, promote, or deter labor union organizing;
shall maintain records sufficient to show that no state funds were used for those expenditures. The private employer shall provide those records to the attorney general upon request.

Sec. 17. A:

(1) state contractor who has violated section 10(b), 13(a), or 16(a) of this chapter; or

(2) grant recipient who has violated section 11(a) of this chapter;

is liable to the state for the amount of any funds obtained in violation of these sections plus a civil penalty equal to twice the amount of those funds.

Sec. 18. A private employer that violates section 14 of this chapter shall be liable to the state for a civil penalty equal to one thousand dollars (\$1,000) per employee per meeting.

Sec. 19. Any public official who knowingly authorizes the use of state funds in violation of section 15 of this chapter shall be liable to the state for the amount of those funds.

Sec. 20. (a) A civil action for a violation of this chapter may be brought by the attorney general or by any state resident for injunctive relief, damages, civil penalties, and other appropriate equitable relief. All damages and civil penalties collected under this chapter shall be paid to the state general fund.

(b) Before filing an action under this section, a state resident shall give written notice to the attorney general of the alleged violation and the intent to bring suit. If the attorney general commences a civil action for the same alleged violation not more than sixty (60) days after receiving the notice, a separate action by the state resident shall be barred.

(c) A state resident may intervene as a plaintiff in any action brought under this section.

(d) A prevailing plaintiff in any action under this section is entitled to recover reasonable attorney's fees and costs. A prevailing state resident intervenor who makes a substantial contribution to an action under this section is entitled to recover reasonable attorney's fees and costs.

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